

1 AN ACT concerning civil procedure.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Code of Civil Procedure is amended by  
5 adding Section 2-615.1 as follows:

6 (735 ILCS 5/2-615.1 new)

7 Sec 2-615.1. Right of petition or free speech; special  
8 motion to dismiss.

9 (a) The General Assembly finds and declares that there  
10 has been a disturbing increase in lawsuits brought primarily  
11 to chill the valid exercise of the constitutional rights of  
12 freedom of speech and petition for the redress of grievances.  
13 The General Assembly finds and declares that it is in the  
14 public interest to encourage continued participation in  
15 matters of public significance, and that this participation  
16 should not be chilled through abuse of the judicial process.  
17 To this end, this Section shall be construed broadly.

18 (b) As used in this Section, "act in furtherance of a  
19 person's right of petition or free speech under the United  
20 States Constitution or Illinois Constitution in connection  
21 with a public issue" includes:

22 (1) any written or oral statement or writing made  
23 before a legislative, executive, or judicial proceeding,  
24 or any other official proceeding authorized by law;

25 (2) any written or oral statement or writing made  
26 in connection with an issue under consideration or review  
27 by a legislative, executive, or judicial body, or any  
28 other official proceeding authorized by law;

29 (3) any written or oral statement or writing made  
30 in a place open to the public or a public forum in  
31 connection with an issue of public interest; and

1           (4) any other conduct in furtherance of the  
2           exercise of the constitutional right of petition or the  
3           constitutional right of free speech in connection with a  
4           public issue or an issue of public interest.

5           (c) A cause of action against a person arising from any  
6           act of that person in furtherance of the person's right of  
7           petition or free speech under the United States Constitution  
8           or Illinois Constitution in connection with a public issue is  
9           subject to a special motion to dismiss unless the court  
10           determines that the party bringing the action has established  
11           that there is a probability that the party will prevail on  
12           the claim. In making its determination, the court shall  
13           consider the pleadings and supporting and opposing affidavits  
14           stating the facts upon which the liability or defense is  
15           based. If the court determines that the party bringing the  
16           action has established a probability that he or she will  
17           prevail on the claim, neither that determination nor the fact  
18           of that determination shall be admissible in evidence at any  
19           later stage of the case, and no burden of proof or degree of  
20           proof otherwise applicable shall be affected by that  
21           determination.

22           (d) In an action subject to subsection (c), a party  
23           filing a special motion to dismiss is entitled to recover his  
24           or her attorney's fees and costs if the motion prevails. If  
25           the court finds that a special motion to dismiss is frivolous  
26           or is solely intended to cause unnecessary delay, the party  
27           bringing the action is entitled to recover his or her  
28           attorney's fees and costs.

29           (e) A special motion to dismiss may be filed within 60  
30           days of the pleading that is subject to the special motion to  
31           dismiss or, in the court's discretion, at any later time upon  
32           terms it deems proper. The special motion to dismiss shall be  
33           scheduled for hearing not more than 30 days after service of  
34           the motion unless the docket conditions of the court require

1 a later hearing.

2 (f) Except as otherwise provided in this subsection (f),  
3 all discovery proceedings in the action shall be stayed upon  
4 the filing of a notice of motion made under this Section. The  
5 stay of discovery shall remain in effect until notice of  
6 entry of the order ruling on the motion. The court, on motion  
7 and notice and for good cause shown, may order that specified  
8 discovery be conducted notwithstanding this subsection (f).

9 (g) An order granting or denying a special motion to  
10 dismiss is appealable in the same manner as a final order in  
11 the action.

12 (h) This Section does not apply to an action brought by  
13 the Attorney General, a State's Attorney, or an attorney for  
14 a unit of local government acting in an official capacity.

15 (i) A party filing a special motion to dismiss under  
16 this Section and a party filing a response to a special  
17 motion to dismiss shall promptly transmit to the Attorney  
18 General, by e-mail or fax, a copy of the motion or response,  
19 a copy of any related notice of appeal, and a copy of any  
20 order issued under this Section, including any order granting  
21 or denying a special motion to dismiss, discovery, or fees.  
22 The Attorney General shall maintain a public record of  
23 information transmitted under this subsection (i) for at  
24 least 3 years and may store the information on microfilm or  
25 other appropriate electronic media.

26 (j) On or before December 31, 2004, the Attorney General  
27 shall report to the General Assembly on the frequency and  
28 outcome of special motions to dismiss made under this Section  
29 and on any other matters pertinent to the purposes of this  
30 Section.